

Date: 20241120

Files: 561-34-41366 and 49413

Citation: 2024 FPSLRB 159

*Federal Public Sector
Labour Relations and
Employment Board Act and
Federal Public Sector
Labour Relations Act*



Before a panel of the
Federal Public Sector
Labour Relations and
Employment Board

BETWEEN

CRAIG WOOD

Complainant

and

PUBLIC SERVICE ALLIANCE OF CANADA

Respondent

Indexed as

Wood v. Public Service Alliance of Canada

In the matter of complaints made under section 190 of the *Federal Public Sector
Labour Relations Act*

Before: Bryan R. Gray, a panel of the Federal Public Sector Labour Relations
and Employment Board

For the Complainant: Himself

For the Respondent: Leslie Robertson, counsel

Decided on the basis of written submissions,
filed January 23 and March 4, 2020, and April 2 and 22,
May 2, 3 and 8, July 10, August 1, and September 3, 2024.

REASONS FOR DECISION

I. Complaints before the Board

[1] In his December 17, 2019, complaint of a failure of the duty of fair representation (DFR) on the part of the Public Service Alliance of Canada (“the respondent” or PSAC), Craig Wood (“the complainant”) wrote that since 2005, his many requests for union representation went unanswered. He added that multiple attempts to use internal complaint systems, attempts to secure mediation from the Federal Public Sector Labour Relations and Employment Board (“the Board”), and attempts to hire a lawyer all failed. He added that he “... has severe mental health issues as a result of both these complaints and employer actions.”

[2] A second DFR complaint was filed with the Board on March 26, 2024. It simply alleged that the respondent “historically ignored me.” On the same day, the complainant emailed the Board’s Registry and stated that he would ask PSAC for help with a Phoenix pay system damages agreement and his medical retirement. He wrote this: “I’m also going to assume that the union won’t answer me and also immediately launch a new DFR complaint.”

[3] The uncontested request of the respondent that the two complaints be joined was approved.

II. Substance of the complaints and allegations

[4] In a pre-hearing videoconference (PHC) held with both parties, the complainant was unable to enunciate any further detail as to what allegations gave rise to the second complaint.

[5] When I asked open-ended and later leading questions about what might have triggered the second complaint, the complainant finally explained that he was aware of the strict time limit in which to make a DFR complaint and that he wanted to have a file open in case something went wrong in the future with PSAC’s handling of his Phoenix-pay-related claim that was in progress.

[6] At the conclusion of the PHC, the respondent stated that after participating in the PHC and reading the originating documentation of the two complaints, it did not know what it was alleged to have done or not done that gave rise to the complaints. As

such, it said that it could not prepare to answer the allegations, as there were none, and therefore could not prepare for the hearing.

[7] I explained to the complainant that the respondent needed to know the details of his case so that it had a fair chance to find evidence and witnesses to answer the allegations. After a lengthy discussion in which he shared that the first complaint arose after he formed the opinion that a past global settlement of many grievances against his employer was unsatisfactory and that the second complaint was an anticipatory effort in case something went wrong in the future with a Phoenix pay system grievance that PSAC was assisting him with, I directed that he provide at least a one-page email with at least point-form allegations, to explain what the respondent had done to cause these complaints to be made.

[8] When the complainant failed to provide this very brief summary of what he alleged formed the basis of his complaints, and after some extra time was allowed him, I issued the following direction:

Subject: FPSLREB files 561-34-41366 & 49413 Craig Wood & Public Service Alliance of Canada

Good day,

The Panel of the Board assigned this matter, Mr. Gray, has ordered that the hearing of the two complaints (561-34-41366 and 561-34-49413) scheduled to take place on April 30 - May 2, 2024, be cancelled and instead that these two matters proceed by means of written submissions.

In the pre-hearing conference chaired by the Board on April 9, 2024. When Mr. Gray asked, the complainant was unable to identify which actions or inactions and the dates of the same in order to provide particulars of his allegations in support of his complaints.

Mr. Gray explained that the respondent must have this information in order to prepare their response to the complaints to be presented through evidence at the hearing.

Mr. Gray requested at the PHC that this information be provided by the complainant in a one- or two-page email immediately after the video conference.

When this information was not received, the Board made the same request in writing to the complainant on April 16, 2024, and a deadline of April 19, 2024, was given for the complainant to provide this information in point form on one or two pages of email.

As this deadline has now passed without the required information being provided, the Board now considers it in the best interests of justice to cancel the hearing as the respondent does not know what they are alleged to have done or omitted to do in their alleged violation of their duty to represent the complainant. As such, they have been unable to prepare their case for the hearing.

The complainant has communicated to the Board that he has had or still has poor health and low energy and poor concentration. Despite the Board enquiring to this effect, there is no accommodation requested.

However, the Board will provide the complainant with one extra month beyond his hearing date when this information should have been prepared anyways, to prepare his written presentation outlining exactly what he says occurred or failed to occur and when to form the basis of his complaints.

The complainant shall make brief written statements of fact in support of each alleged event and provide any relevant documentation as evidence of these alleged events. Each allegation shall be clearly identified with each related statement of fact and also identified with any supporting documents tendered as exhibits by the complainant.

*This shall all be received by the Board no later than **May 30, 2024**.*

*The respondent shall file their reply submissions and statement of fact no later than **June 30, 2024**.*

*The complainant shall then have until **July 30, 2024**, to file his rebuttal addressing only those issues raised in the respondent's reply submission.*

If a dispute over the fact arises, either party may make a written request to the Board to convene an oral cross-examination of a witness. Such a request shall include a written justification for why this is necessary and explain the issue of what is contested and how this is important to the outcome of the case.

The Board also reserved the right to convene oral arguments of the parties after having received their written submissions.

...

[Emphasis in the original]

[9] The Board's written direction to the parties elicited the following submission of poetry from the complainant:

Thank you. One of my psychiatrists had described PTSD regarding my work/union issues but couldn't assign me that diagnosis without the triggering life threatening event. When I tried to throw my mind to the issues, I could feel my chest tightness and my sleep was very disrupted, my CPAP therapy was reduced to 2 hrs Friday, 1 hr Saturday, 4 hours Sunday. I felt my mind rejecting

any time my mind would try and go there. I feel optimistic that I'll improve enough to meet the deadline of Mar 30, 2024. Thank you for your patience and alternative avenue.

I instead wrote a poem lamenting my inability:

'In the shadow of looming hearings, where justice hangs in the balance,

I stand, burdened by the weight of silence.

Unable to prepare, as time slips through my grasp,

The urgency of fair representation, a specter I cannot clasp.

With each passing moment, the deadline draws near,

Yet my hands remain tied, my voice falling on deaf ears.

The present duty of complaint, a pressing call to arms,

But how can I answer, when I am disarmed?

In the halls where decisions are made, I am but a ghost,

My rights disregarded, my plight dismissed as the host.

But still, I stand, though weakened and worn,

For justice delayed, is justice unborn.

So let the drums of change resound in the air,

May my silence ignite a flame, a fervent prayer.

Though I may falter, my spirit remains strong,

In the face of adversity, I will carry on.

As the King of Turtle Island, I raise my voice,

In righteous anger, at the crown's neglectful choice.

For the duties owed to my people, by law and by right,

Must be honored with diligence, not shrouded in night.

Arise'

[Sic throughout]

[10] And on May 3, 2024, the Board received the following submission from the complainant:

Subject: *Re: FPSLREB files 561-34-41366 & 49413 Craig Wood & Public Service Alliance of Canada*

Sorry guys, some back and forth with the union. Sorry I couldn't sort anything out more. Below is my final submission and an AI representation that may or may not better outline my concerns.

This will be my final submission to the FPSLREB due to health reasons regarding the Public Service Alliance of Canadas (PSAC) abject failures in the realm of ensuring employees' rights for

Indigenous Canadians. I understand these submissions will likely be reduced to scornful words with no actual bite. Let these words carry the weight of my Youth Strategy Advisor role of the National Council of Aboriginal Federal Employees (whose funding was cut entirely by Canada Revenue Agency (CRA) shortly after advocating for ensuring Indigenous identity verification should be put into place) and my stint as Aboriginal Representative on the Equal Opportunities Committee of the Union of Taxation Employees (a component of PSAC) and former chair of the Committee for the Awareness of Native Employees of the Winnipeg Tax Centre (Winnipeg has one of the highest Indigenous populations in Canada) and as a member of the Winnipeg and area Human Rights Committee of the PSAC and Winnipeg Tax Centre EE committee.

From the allowing the employers submissions that Indigenous needs are somehow described as benefits to ignoring repeated requests of Indigenous people noted by me and many of our young employees who are no longer at the CRA. You are allowing CRA to harass and discriminate against Indigenous employees with impunity. Even recently, a competition discriminated against hiring Indigenous people at the Winnipeg Tax Centre, an SP03/SP04 competition required Post-Secondary diploma whereas another recent Winnipeg Tax Centre competition for SP03/SP04 people did not require this diploma.

My multiple complaints against this component and location went unheeded. You instead sent everything to UTE who ignored your request and who you claim to have no jurisdiction over their affairs.

These are just a few of the issues to keep this short. Fix your shit.

ChatGPT

Here's a refined version of your draft for submission to the FPSLREB, emphasizing your authoritative stance based on your extensive experience and the specific issues at hand:

Subject: Final Submission to FPSLREB on PSAC's Failure to Uphold Indigenous Employee Rights

Dear Members of the Federal Public Sector Labour Relations and Employment Board,

This submission, potentially my last due to health reasons, draws on my experiences in roles deeply integrated into the advocacy for Indigenous employees within the federal workforce. My positions have included Youth Strategy Advisor for the National Council of Aboriginal Federal Employees, Aboriginal Representative on the Equal Opportunities Committee of the Union of Taxation Employees, Chair of the Committee for the Awareness of Native Employees at the Winnipeg Tax Centre, and Member of the Winnipeg and area Human Rights Committee of the PSAC.

I write to express profound dissatisfaction with the Public Service Alliance of Canada's (PSAC) consistent failures to protect the rights

of Indigenous employees. These failures manifest starkly in the handling of my complaints and the broader systemic issues at the Canada Revenue Agency (CRA).

Key Points of Concern:

Inequality in Job Competitions: There is a clear bias in hiring practices, notably in a recent job competition at the Winnipeg Tax Centre, where Indigenous candidates were unfairly required to hold Post-Secondary diplomas—a requirement not stipulated in a parallel competition for the same pay grades (SP03/SP04).

Neglect of Indigenous Needs: The employer's submissions routinely diminish Indigenous needs, characterizing them merely as 'benefits' rather than essential rights, thereby undermining the legitimate demands of Indigenous employees.

Inadequate Representation and Response: Despite repeated alerts to these issues, my complaints have been consistently ignored or inadequately addressed. This includes the inadequate response from the Union of Taxation Employees (UTE), over which you claim to lack jurisdiction.

These instances are indicative of a broader pattern of disregard and discrimination against Indigenous employees at the CRA, facilitated by a lack of accountability from PSAC and its components. Such systemic failures not only undermine the integrity of our employment system but also violate the very principles of equity and justice that our federal institutions are supposed to uphold.

As a dedicated advocate and former representative, I urge the Board to address these grave issues with the urgency and seriousness they warrant. The continual marginalization of Indigenous employees must be rectified for the CRA and its unions to truly uphold the values of equality and fairness.

Thank you for considering this critical matter. I look forward to your prompt and decisive action.

Sincerely,

Craig Wood (King Kaijee)

Former Chair, Committee for the Awareness of Native Employees

Former Member, Winnipeg Tax Centre EE Committee

[Sic throughout]

III. Analysis and reasons

[11] Over the course of several months in which these matters were being prepared for the hearing, the complainant forwarded well over 6000 pages of documents to the Board. Despite my repeated requests for specific allegations and at least an index of proposed evidence to support each allegation, I found that these thousands of pages of documents lacked any semblance of organization.

[12] The complainant provided the Board with dozens and dozens of emails to PSAC, discussing the process for his many grievances and complaints against his employer and his repeated requests for contact with his local component, the Union of Taxation Employees (UTE).

[13] However, of the many documents reviewed in his submissions, he acknowledged that he received union representation at many junctures of the processing of his many grievances and complaints. He also noted a global settlement with his employer, for which he acknowledged that he had received some form of representation from PSAC in the carriage of.

[14] The complainant sent many emails to the Board providing details of his poor health, his medications, and the at times improvement in his symptoms. He was advised that he could request accommodation but declined to make any such request. Extensions of time were granted to the complainant at all points in the proceeding where a submission had not been made to the Board upon the passage of a deadline.

[15] When the complainant provided another email with some accompanying documentation several months after his written submissions in this matter were due, I accepted them in the spirit of again giving him extra time and every reasonable opportunity to present his case, given his stated medical conditions.

[16] He alleged that on March 8, 2017 the union showed that it was confused as to what its duties owed to him were and that his union failed to meet with him on June 4, 2018.

[17] In its written response to the first complaint, the respondent provided a long list of grievances and complaints in which it had represented the complainant during the 2015-2018 period. It submitted that on June 19, 2018, and again on July 10, 2018, the complainant was informed that it would not refer his grievances to the Board for adjudication. The respondent noted that the first complaint now being heard was filed many hundreds of days later, far beyond the 90-day time limit imposed by s. 190(2) of the *Federal Public Sector Labour Relations Act* (S.C. 2003, c. 22, s. 2; “the Act”).

[18] Specifically, it noted an email in which on June 8, 2018, the complainant’s local component, the UTE, informed him as follows: “... you have provided very little, if any,

pertinent information concerning your grievances, my office was unable to determine if any of them had merit and indeed if any of them were adjudicable.”

[19] The respondent also noted that its national representatives also advised the complainant that if he disagreed with this outcome and wished to have the decision reconsidered, he had to respond and provide documentation in support by July 17, 2018. It claimed that there was no response, which the complainant did not contest.

[20] Despite the discussion of the matter in the PHC, the complainant made no submissions on the matter of the timeliness of his first complaint. In my brief perusal of the thousands of pages of materials submitted by the complainant, I found no discernible actions or failures to act by the respondent within the 90 days preceding his December 17, 2019, complaint.

[21] In our PHC discussion, the complainant voiced concern with the settlement agreement with his employer in which PSAC had represented him. However, despite my requests, he did not provide any specific allegations about what went wrong that could form the basis of a complaint; nor did he make any submissions as to when such a failure of representation would have occurred.

[22] The respondent noted my decision in *Bastasic v. Public Service Alliance of Canada*, 2019 FPSLRB 12 at para. 43, where I state the well-established principle that the burden of proof in DFR complaints is carried by the complainant. In the present matters, this means that the complainant was responsible for making cogent allegations, accompanied by clear and compelling evidence that the respondent failed its duty owed to him.

[23] It is not up to the Board to search through over 6000 pages of documents and handwritten notes to find a possible clue as to what might have gone wrong that might shed light on the complainant’s vague assertions of being ignored.

[24] As noted by Adjudicator Butler in the Board’s decision of *Exeter v. Canadian Association of Professional Employees*, 2009 PSLRB 14:

...

13 The Board disagrees with the complainant’s position that there is no requirement that she particularize the basis for her complaint under the various paragraphs of subsection 190(1) of the Act cited by her or that it would be unfair that she be required

to do so. Any complainant bears a responsibility to outline the details of his or her complaint to the extent necessary to establish how the alleged act or omission breaches a specific prohibition under the Act on a prima facie basis. Should the complainant fail to do so, the Board may dismiss the complaint or may strike from it references to cited provisions of the Act for which it finds no prima facie foundation.

...

[25] This Board is not empowered with investigatory powers to search for evidence that might support a person's sense of having been treated unjustly.

[26] For these reasons, I find that the complainant simply dumping well in excess of 6000 pages of emails, documents, and handwritten notes to the Board does not provide evidence of anything.

[27] The respondent also noted the Board's well-established practice to uphold Parliament's 90-day time limit to make a DFR complaint. See, for example, *Castonguay v. Public Service Alliance of Canada*, 2007 PSLRB 78, where the Board wrote that the 90-day time limit cannot be extended (see paragraph 36).

[28] The respondent also noted the decision of *Paquette v. Public Service Alliance of Canada*, 2018 FPSLRB 20, where it stated that s. 187 of the *Act*, which allows for these complaints, does not necessarily cover disappointments, disagreements, or unfulfilled expectations (paragraph 38).

[29] While the complainant in this matter raised a disturbing allegation of what could be racial discrimination and gave an example of what he alleges is a discriminatory education requirement in hiring practices, this very serious matter about his employer cannot be pursued in these complaints dealing with what the PSAC did or failed to do.

[30] For these reasons, the first complaint is dismissed for being untimely, as required by s. 190(2) of the *Act*.

[31] The complainant admitted that the second complaint was a pre-emptory type of action that he took, just in case something went wrong with PSAC's handling of his Phoenix claim. Such a hypothetical allegation of potential future events cannot form the basis of a complaint, and it is dismissed for this reason.

[32] For all of the above reasons, the Board makes the following order:

(The Order appears on the next page)

IV. Order

[33] The complaints are dismissed.

November 20, 2024.

**Bryan R. Gray,
a panel of the Federal Public Sector
Labour Relations and Employment Board**